

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

GED TESTING SERVICE LLC and AMERICAN COUNCIL
ON EDUCATION,

Plaintiffs,

v.

AMJAD PERVAIZ, ASIF SARWAR SAFI, and AZM
TECHNOLOGIES, individually and d/b/a Free GED Test,
Accredited Adult Diploma, Original High School Diploma, GED
Online Diploma, GED Test Center, High School Diploma Fast,
USA School Diploma, High School Program, Home Diploma,
Home Graduate, Online GED, FreeGEDTest.info,
AccreditedAdultDiploma.info, OriginalHighSchoolDiploma.info,
GEDOnlineDiploma.info, GEDTestCenter.info,
HighSchoolDiplomaFast.info, USASchoolDiploma.info,
HighSchoolProgram.info, HomeDiploma.info,
HomeGraduate.info, and OnlineGED.info; STEVE HAWKINZ
a/k/a STEVE HAWKINS, individually and d/b/a Online Diploma
GED and OnlineDiplomaGED.com; JOHN DOE 1 d/b/a "Robert,
Mr.," Senford High School, Online GED, SHS Accredited High
School, Adult High School Diploma, S High School Diploma,
Earn Degrees Online, High Diploma School,
SenfordHighSchool.com, SenfordHighSchool.net,
SenfordHighSchool.us, OnlineGED.us, AccreditedHighSchool.us,
AdultHighSchoolDiploma.us, SHighSchoolDiploma.us,
EarnDegreesOnline.us, and HighDiplomaSchool.com; JOHN
DOE 2 d/b/a "Sara McCain," GED Online, GED Online School,
and GEDOnlineSchool.com; JOHN DOE 3 d/b/a "John McCain,"
SHS, S High School Diploma, and SHighSchoolDiploma.com;
JOHN DOE 4 d/b/a "McCain Mr.," Sunshine High School,
SunShine, Diploma-GED, Online GED, Get Your GED Online,
SunshineHighSchool.com, Diploma-GED.com, Get-Your-GED-
Online.com; JOHN DOE 5 d/b/a Higher Accreditation
Association for Online Schools and HigherAccreditation.org;
JOHN DOE 6 d/b/a Inventionist007; JOHN DOE 7 d/b/a Adult
Diploma and AdultDiploma.info; JOHN DOE 8 d/b/a Distance
High School and DistanceHighSchool.info; JOHN DOE 9 d/b/a
Earn Diploma Online and EarnDiplomaOnline.info; JOHN DOE
10 d/b/a Accredited Diplomas and AccreditedDiplomas.info;
JOHN DOE 11 d/b/a Earn GED Online and EarnGEDOnline.info;
and JOHN DOES 12-100 acting in concert with them,

Defendants.

MEMO ENDORSED

12 Civ. 1157 (JPO)

**[PROPOSED] DEFAULT
JUDGMENT AND
PERMANENT INJUNCTION**

Plaintiffs GED Testing Service LLC (“GEDTS”) and American Council on Education (“ACE”) (collectively, “Plaintiffs”) commenced this action on February 14, 2012 by the filing of a Complaint, and simultaneously moved *ex parte* for a Temporary Restraining Order, Including an Order to Disable Certain Web Sites, to Restrain Certain Assets, and Restraining Defendants from continuing to use Plaintiffs’ GED® and related trademarks, Application for Expedited Discovery, Application for Leave to Serve Defendants by e-mail, and Application for an Order to Show Cause for Preliminary Injunction (“TRO”), which this Court granted on February 16, 2012 and subsequently modified as per Plaintiffs’ requests on February 22, March 9, and March 14, 2012. The TRO was served by electronic mail, as Ordered by the Court, on the Defendants along with the Complaint and other related papers on March 15, 2012, as reflected in the Certificate of Service filed by Plaintiffs on May 2, 2012.

Defendants, having been served with the Complaint, TRO, and related papers, did not appear or oppose Plaintiffs’ application for a Preliminary Injunction. On March 23, 2012, the Court granted Plaintiffs’ application for, and entered a Preliminary Injunction against all Defendants.

Plaintiffs filed a First Amended Complaint on March 30, 2012 (“Amended Complaint”). The Amended Complaint was served on Defendants by electronic mail, as Ordered by the Court, on April 25, 2012, as reflected in the Certificate of Service filed by Plaintiffs on May 2, 2012.

No Defendant appeared following this Court’s entry of the Preliminary Injunction. No Defendant has answered the Complaint or Amended Complaint, and the time for answering the Complaint and Amended Complaint has expired. ~~On~~

Plaintiffs have certified service of the default judgment papers on July 17, 2012. No response has been filed.
~~On July 17, 2012, the Court entered an Order to Show Cause why a default judgment should not be entered against all Defendants. No Defendant has appeared before the Court to show cause why a default judgment should not be entered.~~

Now, the Court, having reviewed the Complaint, Amended Complaint, Memoranda of Law, supporting Declarations, and exhibits submitted therewith, makes the following findings of fact:

1. Plaintiffs operate the well-established GED® high school equivalency examination that is used by all fifty states in the United States as well as other jurisdictions, including various territories of the United States and provinces of Canada. This test has been used for more than fifty years in the United States and hundreds of thousands of persons take the GED® high school equivalency examination each year.

2. Plaintiff ACE is the owner of numerous valid and enforceable federally registered trademarks for GED and GED-formative marks (the “GED® Marks”), including without limitation Reg. No. 1,321,397 for GED and Design, Reg. No. 2,613,984 for GED, Reg. No. 3,288,043 for GED PLUS and Design, and Reg. No. 3,448,412 for GED TESTING SERVICE.

3. Plaintiff GEDTS is a joint venture between ACE and a subsidiary of Pearson Education, Inc., one of the world’s leading educational publishers. Since the formation of this joint venture in 2011, GEDTS has been charged with the enforcement and maintenance of the GED® brand. Since that time, GEDTS and/or ACE have successfully concluded two proceedings in the U.S. Patent and Trademark Office preventing the registration of GED-i and cancelling a registration for GED PATHWAYS.

4. As set forth in the Complaint and Amended Complaint, Plaintiffs have demonstrated that Defendants are entities and individuals that operate a ring of at least 32 Fraudulent Websites¹ prominently featuring counterfeits of ACE's GED® Marks through which they offer for sale and/or sell sham high school diplomas to consumers in the United States, and in this District.

5. Defendants' bad faith is evidenced by the fact that Defendants have gone to great lengths to try and hide their identities. Thus, while many of the Fraudulent Websites provided a street address for Senford High School in Houston, Texas, no such school exists or ever existed. The Fraudulent Websites were registered using a number of different names, some of which clearly correspond to the 2008 Republican candidates for President and Vice President, as well as the sitting Chief Justice of the United States. When Defendants learned of this action, a person who identified himself as Steven Hawkinz contacted Plaintiffs' counsel and stated that he desired to continue operating the Fraudulent Websites as in connection with the offering of an online high school diploma and his only concession was that he would cease use of the GED® Marks in connection therewith.

6. Defendants' bad faith is further evidenced by the fact that while the public records indicate that the Fraudulent Websites are operated on a server in Texas, they are in fact operated by a company in Bangladesh that subleases a server in Texas.

¹ These websites are AccreditedAdultDiploma.info, AccreditedDiplomas.info, AccreditedHighSchool.us, AdultDiploma.info, AdultHighSchoolDiploma.us, Diploma-GED.com, DistanceHighSchool.info, EarnDegreesOnline.us, EarnDiplomaOnline.info, EarnGEDOnline.info, FreeGEDTest.info, GEDOnlineDiploma.info, GEDOnlineSchool.com, GEDTestCenter.info, Get-Your-GED-OnLine.com, HighDiplomaSchool.com, HigherAccreditation.org, HighSchoolDiplomaFast.info, HighSchoolProgram.info, HomeDiploma.info, HomeGraduate.info, OnlineDiplomaGED.com, OnlineGED.info, OnlineGED.us, OrignalHighSchoolDiploma.info, SenfordHighSchool.com, SenfordHighSchool.net, SenfordHighSchool.us, SHighSchoolDiploma.com, SHighSchoolDiploma.us, SunshineHighSchool.com, and USASchoolDiploma.info (collectively, Defendants' "Fraudulent Websites").

7. The facts of this case illustrate the strength and power of the GED® Marks, as by just using these marks, as shown below, Defendants were able to attract and operate what appears to have been a highly successful business operation based on fraud and trickery. On March 17, 2012, the Fraudulent Web Sites were disabled and redirected to a legal notice page hosted by the law firm where Plaintiffs' counsel is a partner. However, even as recently as July 8, 2012, over 500 unique visitors visit the Fraudulent Websites each day. It is clear to the Court that, if given the opportunity, Defendants would recommence the use of the Fraudulent Websites.

8. Defendants have disregarded the Temporary Restraining Order and Preliminary Injunction issued by this Court by failing to appear and/or answer Plaintiffs' Complaint or Amended Complaint; and based on these findings of fact, the Court now makes the following conclusions of law; the Court:

HEREBY FINDS that Defendants are liable for federal trademark counterfeiting and trademark infringement under 15 U.S.C. § 1114(1), unfair competition and false designation of origin under 15 U.S.C. § 1125(a)(1)(A), false advertising under 15 U.S.C. § 1125(a)(1)(B), cybersquatting under the federal Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), deceptive trade practices under New York General Business Law § 349, use of a name with intent to deceive under New York General Business Law § 133, and trademark infringement and unfair competition under the common law of the State of New York; and, based on the Court's findings of fact and conclusions of law, so it is

ORDERED, ADJUDGED, AND DECREED that, pursuant to 15 U.S.C. § 1117(c)(2), Plaintiffs be awarded statutory damages from Defendants in the amount of \$6,000,000; and

IT IS FURTHER ORDERED that all monies currently restrained in Defendants' accounts held by any banks, savings and loan associations, payment processors or other financial institutions (including without limitation PayPal, Inc., or other account providers, payment providers, or third party processors for any Defendant, any of Defendants' operations, Defendants' Fraudulent Websites, or for any other website owned or controlled by Defendants (collectively, "Financial Institutions") be released to Plaintiffs as partial payment of the above-mentioned damages; and

IT IS FURTHER ORDERED that in whole or partial satisfaction of the judgment, Plaintiffs are entitled to any of Defendants' monies and property, wherever they may be found; and

IT IS FURTHER ORDERED that Defendants, and any employees, agents, servants, officers, representatives, directors, attorneys, successors, affiliates, assigns, and entities owned or controlled by Defendants, and all those in active concert and participation with Defendants, are hereby **PERMANENTLY ENJOINED** from:

- a) using ACE's GED® Marks, as well as any other trademark, service mark, name, logo, design or source designation of any kind owned by ACE or GEDTS, or any reproduction, counterfeit, copy or colorable imitation of such marks or designations, in connection with the import, export, manufacture, production, distribution, advertising, promotion, display, offer for sale and/or sale of any goods or services relating to online

educational offerings, GED® preparation courses, or any high school equivalency examinations or preparations therefore;

b) shipping, delivering, holding for sale, distributing, returning, transferring or otherwise moving, storing or disposing of in any manner any unauthorized goods or promotional materials in connection with goods or services relating to online educational offerings, GED® preparation courses, or any high school equivalency examinations or preparations therefore that bear, use, or display the GED® Marks, or any reproduction, counterfeit, copy or colorable imitation of the same;

c) utilizing the Fraudulent Websites and registering, trafficking in, or using any additional domain names that use or incorporate any of the GED® Marks, or any reproduction, counterfeit, copy or colorable imitation of the same;

d) using the GED® Marks, as well as any other trademark, service mark, name, logo, design or source designation of any kind owned by ACE or GEDTS, or any reproduction, counterfeit, copy or colorable imitation of such marks or designations, in connection with Defendants' business or trade names, domain names, websites, website metadata, other online services or activities, or any other goods or services, in a manner that is likely to cause confusion, mistake, deception, or public misunderstanding that such business or trade names, domain names, websites, website metadata, other online services or activities, or other goods or services are produced, provided, sponsored or authorized by or in any way connected or associated with Plaintiffs;

e) using any false designation of origin or false description, or performing any act which is likely to lead members of the trade or public to believe that any infringing good or service manufactured, distributed, advertised, sold and/or offered for

sale by Defendants is any manner associated or connected with Plaintiffs, or is sold, manufactured, licensed, sponsored, approved or authorized by Plaintiffs;

- f) operating any of the Fraudulent Websites;
- g) further infringing any of the GED® Marks or otherwise damaging Plaintiffs' goodwill in any manner prohibited by the Lanham Act or other federal law;
- h) otherwise unfairly competing with Plaintiffs in any manner prohibited by the Lanham Act or other federal law;
- i) registering any other domain name and/or operating any website that purports to offer any high school diploma or equivalency degree unless Defendants first submit to this Court evidence to establish that such diploma or credential is in fact bona fide and recognized by at least one jurisdiction in the United States; or
- j) instructing, assisting, aiding or abetting any other person or entity in engaging in or performing any of the activities referred to in subparagraphs (a) through (i) above; and

IT IS FURTHER ORDERED that any third parties providing services used in connection with Defendants' operations, including without limitation, (1) Internet Service Providers and/or web hosting companies (including without limitation Softlayer Technologies), (2) domain name registrars (including without limitation Directi Internet Solutions Pvt. Ltd. dba PublicDomainRegistry.com, OnlineNic, Inc, and GoDaddy.com, LLC), (3) back-end service providers, (4) web designers, (5) sponsored search engine or ad-word providers, (6) shippers, or (7) domain name registries (including without limitation VeriSign, Inc., NeuStar, Inc., Afilias USA, Inc., and Public Interest Registry) (all of the above, collectively, "Third Party Providers") who are served by Plaintiffs with

notice of this Permanent Injunction, are permanently enjoined from providing services to any Defendant in connection with any of the Fraudulent Websites or in conjunction with any of the acts set forth in subparagraphs (a)-(j) above; and

IT IS FURTHER ORDERED that any domain name registrars, including without limitation GoDaddy.com, LLC, registries, registry operators, or network information centers, including without limitation VeriSign, Inc., NeuStar, Inc., Afilias USA, Inc., and Public Interest Registry, who are served by Plaintiffs with notice of this Permanent Injunction, immediately (1) effectuate the transfer of the registration of the following domain names associated with the Fraudulent Websites containing Plaintiffs' GED® Marks in the domain name to Plaintiff ACE at a registrar of Plaintiffs' choice: Diploma-GED.com, EarnGEDOnline.info, FreeGEDTest.info, GEDOnlineDiploma.info, GEDOnlineSchool.com, GEDTestCenter.info, Get-Your-GED-Online.com, OnlineDiplomaGED.com, OnlineGED.info, and OnlineGED.us; and (2) effectuate the transfer of the registration of the following domain names associated with the Fraudulent Websites in the domain name to Plaintiff GEDTS at a registrar of Plaintiffs' choice: AccreditedAdultDiploma.info, AccreditedDiplomas.info, AccreditedHighSchool.us, AdultDiploma.info, AdultHighSchoolDiploma.us, DistanceHighSchool.info, EarnDegreesOnline.us, EarnDiplomaOnline.info, HighDiplomaSchool.com, HigherAccreditation.org, HighSchoolDiplomaFast.info, HighSchoolProgram.info, HomeDiploma.info, HomeGraduate.info, OrignalHighSchoolDiploma.info, SenfordHighSchool.com, SenfordHighSchool.net, SenfordHighSchool.us, SHighSchoolDiploma.com, SHighSchoolDiploma.us, SunshineHighSchool.com, and USASchoolDiploma.info; and

IT IS FURTHER ORDERED that, effective immediately and in accordance with the authority presented to this Court, any Financial Institutions who are served by Plaintiffs with notice of this Permanent Injunction are hereby permanently restrained and enjoined from processing payments, directly or indirectly, for the benefit of Defendants, that are in any way related to goods or services offered on the Fraudulent Websites; and

IT IS FURTHER ORDERED that, if Plaintiffs discover new domain names registered by Defendants containing any of the GED® Marks or marks confusingly similar thereto, or any websites operated by Defendants that display the GED® Marks or marks confusingly similar thereto (collectively, “Additional Infringing Websites”), Plaintiffs may bring the Additional Infringing Websites to the Court’s attention, and seek to establish to the Court’s satisfaction that the Additional Infringing Websites were registered by Defendants and thereby violate this Permanent Injunction. Upon making a sufficient showing, the Court may enter an appropriate Order finding that the Additional Infringing Websites fall within the scope of this Permanent Injunction. Such an Order finding the Additional Infringing Websites in contempt of this Permanent Injunction may then be served by Plaintiffs upon the Internet registries who shall place the domain names associated with the Additional Infringing Websites on Registry Lock and Registry Hold, and transfer these domain names to a registrar of Plaintiffs’ choosing. Further, Plaintiffs may provide actual notice of such an Order to Third Party Providers who, upon receiving such notice, shall immediately and permanently cease rendering any services to Defendants in connection with the Additional Infringing Websites and associated domain names; and

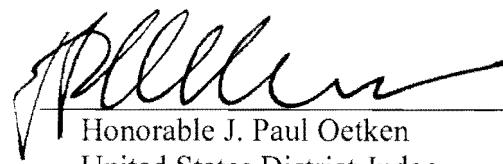
IT IS FINALLY ORDERED that Plaintiffs may continue to serve all papers in this matter upon Defendants by e-mail at the following addresses, which Plaintiffs have demonstrated will provide adequate notice to Defendants pursuant to Rule 4 of the Federal Rules of Civil Procedure:

- olusola.adio@logion.co.uk
- senfordhigh@hotmail.com
- senfordhighschool@hotmail.com
- sunshinehighschool@gmail.com
- haafos@gmail.com
- contact@privacyprotect.org
- onlinediplomaged.com@domainsbyproxy.com
- bugx143@hotmail.com

as well as by attempting service at any other e-mail address or facsimile number belonging to or associated with any Defendant.

Dated: New York, New York

Aug. 20, 2012



Honorable J. Paul Oetken
United States District Judge

*The Clerk of Court
is directed to terminate
this case on the Court's docket.*